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COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Item 11 (c) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: FREEDOM OF EXPRESSION

Written statement submitted by the Organization for Defending Victims of Violence, a non-government organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 February 1999]

GE.99-11418 (E)

Violence and intolerance: a threat against freedom of expression

1. Freedom is one of the most fundamental human rights. Among the various kinds of freedom, "individual freedom" is the most important and among the individual freedoms, the "freedom of expression" is the most necessary for achieving the human dignity. Freedom of expression means that everyone is free to choose and may have any kind of thought or belief. It should be said that freedom of expression and freedom of thought are interrelated. John Stuart Mill, in his thesis entitled "The Freedom", emphasized the relationship between these two freedoms, both of which are indispensable.

2. Islam, like any other religion, is considered to be the best religion in its followers' view. Islam respects peoples' freedom to choose or not to choose this religion and doesn't force anybody to follow it. One of the verses of the Quran in the second Surah (v.256) says: "There is no obligation in accepting Islam". In an attempt to interpret this verse, Allameh Tabatabaei, in his book entitled The Scale (Tafsir-e Almizan), says: "Believing in Islam is not obligatory". He also notes, in The Islamic Research, that nobody is obliged to accept Islam, since any obligation leads to a failure in this matter. Ayatollah Motahari, in one of his books entitled About the Islamic Republic, says: "Belief is a spiritual decision. It will be destroyed when people lose their inclination towards such belief (...). To make anyone believe in God will be possible only in a free and instructing atmosphere, not under constraint conditions, since certain concepts like belief and kindness cannot be imposed on any individual".

3. Among the various eras of Iran's history, there are four periods in which freedom of expression and freedom of thought have found a better situation in the society. The first period relates to the Constitutionalism movement. The second period belongs to the 1920s which began with Reza Pahlavi's exile and continued with the 19 August coup against the national Government in Iran. The third period pertains to the early years of the post-Revolution period which continued until the outbreak of the war and the activities of terrorist groups such as mujahedin organization. The fourth period has begin with the reformists' coming to power in the Khatami Government.

4. Looking for an appropriate answer to the question of which factors have limited the freedoms of expression and thought, it should be said that there are several parameters in this regard. These include the absence of civil society institutions, misjudgements, lack of political will, lack of institutionalized freedom of thought and expression, lack of a culture of tolerance, and the existence of certain groups which assume themselves to be absolutely right. Among the different causes of intolerance, the existence of violence and violence seekers have the main role in limiting social and individual freedoms.

5. During the Constitutionalism movement in Iran, the violence committed by the forces of Reza Pahlavi caused violations of the people's freedom. In the 1940s, the occurrence of the August coup, followed by brutal violence, caused freedom to be limited. In the third era, aside from the external factor (the Iran-Iraq war), a strategy of terrorism by certain internal groups which violated the public security gave the appropriate excuse to the ruling

power to limit freedom in the name of protecting national security. In the new era, while the reformists have come to power, we are still witnessing that those groups, which find the free atmosphere contrary to their goals, have increased their violent activities. Some of them have attacked the press and the reformists, and even murdered them. Others still insist on resorting to terroristic activities. The present violence-seeking groups and individuals, although heterogenous, are following the same goal, that is, in fact, uprooting the freedoms in Iran.

6. The Organization for Defending Victims of Violence (ODVV) considers all kinds of violence committed by any group or individual a threat to freedom and condemns them all. The ODVV calls upon all people who respect human rights to limit violent and terrorist behaviour by condemning it. The Organization, while calling on the Commission to plan certain appropriate mechanisms to remove all the obstacles in the way of the realization of the freedom of expression in various societies, would like to stress the fact that today the most serious threat to the freedoms of expression and thought is violence and terrorism.

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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement submitted by the World Medical Association, a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 February 1999]

GE.99-11430 (E)

World Medical Association proposal for a United Nations Rapporteur on the independence and integrity of health professionals

(Adopted by the 49th WMA General Assembly,
Hamburg, Germany, November 1997)

1. The World Medical Association (WMA) supports a proposal, put forward by a network of medical organizations* concerned with human rights issues, for the establishment of a new United Nations post of rapporteur on the independence and integrity of health professionals.

2. It is envisaged that the role of the rapporteur will supplement the work already done by a series of existing United Nations rapporteurs on issues such as torture, arbitrary executions, violence against women, etc. The new rapporteur would be charged with the task of monitoring that doctors are allowed to move freely and that patients have access to medical treatment, without discrimination as to nationality or ethnic origin, in war zones or in situations of political tension. The role of the proposed rapporteur is detailed below.

3. The original proposal was drawn up by a lawyer, Cees Flinterman, who is a professor of constitutional and international law at the University of Limburg, Maastricht, in the Netherlands. It has the support of a range of doctors' organizations,* whose interests are in protecting human rights and protecting doctors who act impartially in conflict situations. This group will be consulting widely and acting with the help of the International Commission of Jurists to interest the United Nations in this proposal.

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* Organizations participating in the network include: Amnesty International; British Medical Association; Centre for Enquiry into Health and Allied Themes (Bombay); Graza Community Mental Health; International Committee of the Red Cross; Physicians for Human Rights (in Denmark, Israel, South Africa, the United Kingdom and the United States of America); Turkish Medical Association; Johannes Weir Foundation.

ANNEX

Proposal for a rapporteur on the independence and integrity of health professionals

Goals

Accepting that in many situations of political conflict (such as civil or international war) or political tension (such as during suspension of civil rights in a Government-declared state of emergency), health professionals are often the first people outside the military or government circles to have detailed knowledge of human rights violations, including violations of the right of populations to access medical treatment, a network of physicians is anxious that a range of national and international reporting mechanisms be established to achieve the following goals:

1. To monitor the role of health professionals working in situations where either their rights to give, or the rights of their patients to receive treatment are threatened;

2. To make appeals for the protection of health professionals when they are in danger solely because of their professional or human rights activities;

3. To defend patients who are in danger of suffering human rights violations solely because of seeking medical treatment;

4. To encourage reporting of human rights violations by health professionals;

5. To analyse information about health professionals voluntarily adopting discriminatory practices.

The group considers that existing United Nations reporting mechanisms need expansion. Key among proposals for new mechanisms is the development of a new post of United Nations rapporteur which would link together relevant information emerging from other existing United Nations mechanisms and also suggest where other useful local and national reporting networks could be developed in the long term. Therefore, on the basis of materials prepared by the Law Department at the University of Limburg, Maastricht, and circulated by the Dutch medical group, the Johannes Wier Foundation, the group is campaigning for a new post of United Nations Rapporteur on the Independence and Integrity of Health Professionals.

Defining the role

The potential role of a United Nations rapporteur need not be exhaustively defined in advance since the experience of the individual and the practical applicability of the goals must have an influence. It should include the following:

(a) Receive, evaluate, investigate and report allegations of repression directed at health professionals or intended to prevent individuals

receiving medical care. The rapporteur should be a clearing house for reports from individuals, groups of doctors, NGOs, etc. and, as well as simply receiving information, should pro-actively seek out information, including on-site visits;

(b) To build upon existing principles as found in humanitarian law and the codes of medical ethics applicable in armed conflicts to develop specific guidelines on the subject of medical impartiality in relation to the treatment of patients in situations of political or armed conflict. The World Medical Association and national medical associations should be encouraged to disseminate such information to health professionals during their training. Arising also from such guidance should be the institution of mechanisms to help health professionals protect themselves in situations where human rights are at risk;

(c) The rapporteur should also have a consultative role, seeking the views of international and national professional associations, human rights bodies and humanitarian organizations with regard to the protection of health professionals and the defence of the right to treat patients impartially;

(d) The rapporteur should investigate reports of health professionals voluntarily transgressing guidelines about impartiality and non-discrimination.

Issues within the remit

The fundamental concern is to protect the nature of the doctor-patient relationship from unjustified external interference although it will also include voluntary transgressing of impartiality by health professionals. The rapporteur's role will be to ensure the independence, integrity and impartiality of health professionals. Ensuring these aims requires analysis of whether:

- the treatment decisions of health professionals can be carried out without coming into conflict with improper pressure from authorities;

- the physical integrity and ability of health professionals to act in accordance with their professional principles are both protected;

- health professionals are able to provide treatment on the basis of patient need;

- people in need of medical treatment are able to access it safely;

- health professionals are ensured their freedom of movement, in the capacity as medical care providers, and be able to have access to people in need of medical services.

Monitoring the degree to which external pressures influence negatively the provision of medical treatment will be within the remit of the rapporteur.

The remit will be global.

For lack of a reporting mechanism, health professionals are often disempowered from taking action on violations of patient rights. One of the issues for the rapporteur to monitor would be the introduction of national or local legislation, civil or military regulations or other rules prohibiting or limiting the provision of medical or nursing care to certain categories of patient.

It will be within the remit of the rapporteur to bring the evidence or reports of violations of medical impartiality, including by volunteer health professionals to responsible bodies in the medical field and to the Governments concerned.

Blanket restrictions on the medical or nursing services to be provided to members of vulnerable groups, such as refugees, asylum-seekers, prisoners, minority ethnic groups, should be among the issues monitored by the rapporteur. The rapporteur should contribute to the empowerment of the health professionals to resist collectively the erosion of such patients' rights.

Threats, intimidation or pressures on heath professionals to discriminate against patients on the basis solely of non-medical-related considerations such as ethnic, religious or racial affiliation should be investigated even if the threats do not materialize.

Reports of health professionals being harassed or detained simply because of their profession or because of the exercise of professional skills will be investigated by the rapporteur. Similarly, repressive measures designed to prevent health professionals reporting infringements of medical integrity will be investigated. Measures to encourage health professionals actively to document and report such violations should be put forward by the rapporteur in consultation with other bodies.

Reports of patients being impeded or discouraged from gaining access to the available medical treatment will be investigated.

Issues outside the remit

Just as important as defining what is within the rapporteur's remit is the matter of clarifying those issues which fall outside it. We anticipate that this too will become clearer as practice and experience develop. In the meantime, however, we suggest that:

(a) Health professionals in every country should be educated about the ethical responsibilities they have to patients and potential patients. Whereas such education is not within the remit of the rapporteur, acting as a resource for advice about medical impartiality would be within the rapporteur's remit. In the long term this function should ideally be dealt with by delegation through medical schools, professional bodies and voluntary national networks;

(b) While government measures to regulate aspects of care (such as the equitable distribution of medical resources or the prioritizing of treatment

on the basis of need) would not generally be a matter for monitoring for the rapporteur, extreme measures likely to result in the disenfranchising of groups of patients from medical or nursing services would be monitored and investigated;

(c) Governments' *indiscriminate* failure to provide health promotion or treatment to many or all sectors of the community does not fall within the remit of the rapporteur;

(d) Since a principal concern is to ensure access to medical treatment by patients who need and want it, the voluntary decision of some individuals or patient groups to exclude themselves (for example on religious or cultural grounds) from orthodox medicine does not fall within the remit of the rapporteur.

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Fifty-fifth session
Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement submitted by Centre Europe Tiers-Monde, a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[3 March 1999]

GE.99-11442 (E)

Hurricane Mitch, a natural disaster seriously aggravated by the structural adjustment policies and questionable actions of Governments and transnational companies

1. Between 25 October and 2 November 1998, Central America suffered a natural disaster in the form of hurricane Mitch, which caused an ensuing economic and social disaster for several countries in the region, namely Nicaragua, Honduras, El Salvador and Guatemala. Apart from tens of thousands of casualties, either killed or injured, hundreds of thousands of people lost what little they owned, such as a roof over their head, some crops and a few animals.

2. While international opinion is more impressed with the natural aspect of the disaster, it is also worth considering the political and economic reasons for the ensuing human disaster. We felt we had to take another look at that "natural" disaster. In fact, many of the players involved bear a clear responsibility for aggravating its consequences. Hurricane Mitch showed up the shortcomings of an economic, social and political system that excludes the majority of the population. For the purposes of this communication, we shall take Nicaragua as an example.

The responsibility of Governments

3. Undoubtedly the extreme poverty of the population was a general factor that favoured the aggravation of the hurricane's consequences. The small farmers in the region, who are the victims of the authorities' exclusion policies, were unable to protect themselves from the devastating effects of the hurricane. In recent years, the Nicaraguan Government's policies have merely aggravated the poverty of deprived social sectors. According to a survey carried out in December 1998 by the International Foundation for Global Development (FIDEG), based in Managua, from 1993 to this bitter year-end, the proportion of the population unable to afford more than half the basic household basket of goods rose from 40.8 to 65.5 per cent in the country's main towns.

4. Furthermore, the attitude of Mr. Arnoldo Alemán's Government to the disaster merely increased the number of victims and the amount of damage in the country. This is because for reasons of domestic and international policy, the Nicaraguan Government played down the importance of the hurricane. It withheld information, while failing to organize relief work or to declare a state of emergency. There were three motives underlying this policy: (a) if the Government had declared a state of emergency, it would have had to recognize that the peasants were not in a condition to repay their debts and it would then have had to provide them with financial support; (b) from the point of view of domestic policy, it was preferable to prevent the distribution of aid by NGOs so as to keep aid benefits within the broad circle of the authorities; (c) there was a fear that foreign investors would be scared away by alarming forecasts. This is why the conduct of the Alemán Government is nothing short of criminal.

The responsibility of international financial institutions

5. It is a well-known fact that international financial institutions attach certain conditions to the loans they grant receiving countries. One of the main conditions is the implementation of Structural Adjustment Programmes (SAP), whose dramatic consequences are familiar, including devaluation, drastic cuts in social expenditure, privatization of public enterprises and public land for the benefit of a small minority, de-indexing of salaries, lowest prices for raw materials, increase of indebtedness, etc. In our opinion, the neo-liberal policies imposed by the international financial institutions (IMF and World Bank) and followed by Central American Governments played a significant role in aggravating the damage caused by hurricane Mitch.

6. Also in Nicaragua, as a result of the introduction of structural adjustment programmes, small farmers were forced either to settle their debts or to leave the land they had gained through agrarian reform. Because of the transfer of land to major landowners, peasants were forced to start farming in flood areas, on the slopes of mountains or volcanos or too close to rivers. No preventive measures were taken by the authorities against the possibility of natural disasters, although they occur frequently in these high-risk areas. The areas were rendered even more dangerous because large-scale agricultural and forestry policies, combined with the effects of war, have led to deforestation on a dramatic scale. Forest and vegetation cover had previously limited the damage caused by natural disasters.

7. A further factor is the vicious circle of indebtedness in which all the countries affected by hurricane Mitch have been trapped. The low revenues they earn end up in the coffers of their creditors, especially those of the IMF and the World Bank. The populations of Central American countries, who are led by Governments acting in collusion with international financial institutions, are unable to keep their heads above water or to plan ahead for the medium and long term. It is no coincidence that the two countries worst affected by the hurricane are those which hold the unfortunate record of the highest external debt in the region, with the exception of Panama. 1/

The additional responsibility of transnational companies

8. The attitude adopted by transnational banana companies, such as Dole (Castle and Cook) and Chiquita (United Brands Company), following hurricane Mitch hardly comes as a surprise. When part of their plantations was destroyed, both companies made many of their plantation workers redundant: 12,000 in Honduras and 3,000 in Guatemala. 2/ In so doing, they have seriously threatened the survival of thousands of workers and their families, at a time when the latter have already lost their homes and when social protection is either inappropriate or non-existent. The redundancies have occurred at a time of the year which is particularly difficult for the workers and their families. The sowing season starts only in July, so what are these people supposed to do to survive until the first harvests?

9. Is it fair and acceptable that the employees of these giant companies should have to be the first to suffer the consequences of hurricane Mitch on the banana plantations, considering that very large sales have been reported by both United Brands and Castle and Cook? 3/ Furthermore, the multinationals

take advantage of the situation to exert pressure on the trade unions. They go back on collective agreements, placing the unions on the defensive, and apply redundancies in the first place to unionized workers (in Guatemala, Cobsa-Dole made all the members of the UNSITRAGA trade union redundant). 4/ Such suspensions, threats and dismissals are a clear violation of economic and social rights.

10. Considering only the question of redundancies and dismissals, however, would be to ignore the general background of transnational food companies' general attitude to the economic and social rights of the populations of southern countries. It might be suggested that these large-scale dismissals are part of a well-defined strategy, which consists in externalizing social costs at the expense of the most basic human rights, and internalizing profits, which are transferred back to the multinationals' home countries.

11. Insofar as they are major international economic players, transnational companies have an obligation to respect economic, social and cultural rights. The Tripartite Declaration of Principles on multinational enterprises and social policy adopted by the Governing Board of the International Labour Organization in 1977 is very clear in this respect, and stipulates in particular that "All the parties concerned by this Declaration (...) should respect the Universal Declaration of Human Rights and the corresponding international Covenants (...) as well as the Constitution of the International Labour Organization." 5/

The role of the United States

12. A further point is the influence exerted by the policy of successive United States Governments, which have played a disastrous role in Central America. They have maintained political and social instability in the region by preventing any kind of reform, especially agrarian, by overthrowing democratic or popular Governments, and by backing armed movements. From this point of view, the arrival of 1,700 American marines in Nicaragua in December 1998 to "rebuild" the country seems to have been pure provocation, if one considers the relations between the two countries over the last decades. It may be wondered whether this deployment of troops is not part of a strategy for militarizing the region. 6/

Reconstruction and international aid

13. Right now, the most urgent problems are ensuring the democratic distribution of international aid and making the best use of it. However, the indications given amongst others by the Alemán Government are not reassuring. The Government estimates that two thirds of external aid should be assigned to "modernizing the highway and energy infrastructure of the country". 7/ One of the projects for which Mr. Alemán is seeking funding is the enlargement of the road to Masaya, one of the main highways of Managua, which was not affected by the hurricane. The type of reconstruction proposed by the Alemán Government in Nicaragua, portrayed as "export-oriented" and "urban", tends to further strengthen major agricultural producers and the already growing construction sector.

14. This sort of attitude has been raising serious doubts among non-governmental and peasant organizations representing the population sectors most affected by the hurricane, which are now in extreme poverty. They are countering with an aid and reconstruction plan aimed at assisting populations in need. The proposal drafted by "Civil Coordination for Emergency and Reconstruction", to which 320 NGOs, networks, groups and national associations are affiliated, wants priority to be given to rural development, with an emphasis on the role of small and medium-sized producers, and stresses the need to find a model of ecologically and humanly viable, sustainable development.

15. The attitude of the northern countries and the IMF to aid is a matter of concern, insofar as they want emergency aid tied to the implementation of Structural Adjustment Programmes by receiving countries. The IMF member countries will be meeting to discuss the matter in Stockholm in May 1999. Such conditions, however, are unacceptable and will only further impoverish the countries of Central America.

16. With regard to reconstruction and the allocation of aid, CETIM makes the following recommendations:

(a) All serious reconstruction projects must make allowance for the real, democratic participation of all the social sectors affected. The representatives of civil society, NGOs, municipalities, and rural and urban communities must be associated with aid distribution. Transparency must be ensured in the allocation of funds;

(b) The hurricane Mitch disaster should provide an opportunity for an in-depth review by the international community of SAPs, the reconsideration of which should be finally placed on the agenda. Experience has shown that imposed adjustments lead to the enrichment of a few at the expense of the rest of the population;

(c) The bilateral and multilateral external debts of the countries affected by the hurricane should be immediately and totally cancelled, while it should be ensured that the gains obtained by this political decision and the funds released will in the first place benefit the deprived sectors of the population. The Commission on Human Rights should make appropriate recommendations to this effect to IMF member countries;

(d) The internal debt of the sectors affected by hurricane Mitch should also be cancelled by Governments. This measure would concern 200,000 small farmers in Nicaragua, who are the driving force behind economic reconstruction;

(e) Transnational companies must comply with the provisions of the two Covenants and international human rights conventions.

Note: On economic and social aspects of the effects of hurricane Mitch, see bulletin No. 50 of the *Correos de Centroamérica* (*Information and reflection bulletin on Central America, the Caribbean and Mexico*) and the series of articles on the subject in the daily *Le Courrier*, Geneva (starting 28 January 1999).

Notes

1/ Honduras and Nicaragua paid out US$ 400 million and 360 million respectively this year for debt servicing. In comparison, it costs US$ 30 million to renovate the hospital system in Honduras.

2/ According to information provided by the International Labour Union of the Food, Agriculture, Hotel Trade, Tobacco and Related Sectors Industries (UITA), January 1999.

3/ Chiquita, for instance, a subsidiary of United Brands, reported sales of 2.4 billion in 1997 (Source: Hoovers online, *The ultimate source for company information*, Austin, Texas, 1999, www.hoovers.com). United Brands operates in 15 other countries as well.

4/ See endnote 2.

5/ Tripartite Declaration: E/C.10/31, para. 8.

6/ As everyone knows, on the pretext of combating drug trafficking, the United States maintain substantial forces in most Latin American countries.

7/ According to an article published in December 1998 in the review of the Central American University of Managua, Envio.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement submitted by the International Union of Socialist Youth, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 1999]

GE.99-11422 (E)

1. The harsh suppression of a peaceful demonstration inside Drapchi Prison, Lhasa, in May 1998, on the outskirts of the Tibetan capital Lhasa was evidence of China's absolute disregard of the Tibetans' right to freedom of expression. There are confirmed reports of 12 prisoners who died as a result, and many more were injured after Chinese security forces fired on the prisoners. Others who participated in the demonstration have endured severe repercussions. The demonstration occurred at the time of an official visit by European Union Troika Ambassadors, yet the Chinese monopoly over information prevented the delegation from finding out about the incident until they had left the region.

2. Following the EU Troika mission, Tibet was also visited by members of the Danish Parliament's Foreign Policy Committee in August 1998, and by the United Nations High Commissioner for Human Rights, Mary Robinson, in September. Visiting delegations reportedly expressed dissatisfaction with the limits imposed on their visits by the Chinese authorities. Reports now indicate that the Chinese authorities have detained two monks from Drepung monastery for their involvement in the preparation of a letter addressed to the High Commissioner for Human Rights. The whereabouts of the monks remain unknown. Another report states that the prison terms of three Tibetans were extended by up to 10 years following their protest against the Chinese Government during a visit to the jail by United Nations delegates in October.

3. On 5 October 1998, the People's Republic of China signed the International Covenant on Civil and Political Rights. This is a welcome gesture which awaits evidence of suitable adaptations to bring China's domestic laws and practice into line with the international standards. Present practices transgress international human rights standards, and although improvements have been made in some areas, a more comprehensive scheme for the protection of the Tibetans' human rights must be implemented immediately. Despite the obligation to ensure that all citizens can enjoy freedom of expression and opinion, the People's Republic of China has actively violated such rights.

4. The 1996 amendments to the Chinese Criminal Procedure Law failed to implement mechanisms to protect individuals from arbitrary arrest and detention. According to information received by our organization, the vast majority of the 135 arrests of Tibetans in 1998 were arbitrary. Imprisoned on ambiguous charges of "endangering State security", incarcerated for exercising their basic rights, the prisoners are denied many rights whilst detained. Legal proceedings fail to meet international standards; the accused are often denied legal representation, visitation rights and the right to appeal. They are often subjected to torture in order to extract a "confession", and many are detained without any judicial proceeding at all. Twelve new cases of such disappearances were reported in Tibet in 1998 despite the concern expressed by the Working Group on Enforced or Involuntary Disappearance on the "emerging pattern" of disappearances in Tibet.

5. According to Amnesty International, there are more than 500 Tibetan political prisoners in Chinese prisons. The rate of imprisonment for political reasons in Tibet is far greater than in other areas under Chinese

rule. It is indicative of the extent of the comprehensive campaign of the Chinese authorities to eliminate any views contrary to official policy in Tibet.

6. Torture constitutes a profound abuse of human rights yet despite being party to various international conventions which outlaw the practice, the Chinese authorities continue to tacitly endorse its use in detention centres and prisons. The ultimate violation of human rights is the termination of life. In 1998, 19 Tibetans died prematurely whilst in detention. Twelve of these deaths resulted from the Chinese suppression of the peaceful demonstration in Drapchi prison on 1 and 4 May. Since 1986, the deaths of 60 known Tibetans in detention have been recorded.

7. Contrary to international and domestic regulations, the rights of Tibetan children are not being fully protected by the Chinese Government. Due to subsistence difficulties, inadequate facilities and discriminatory measures, many Tibetan children are denied access to adequate health care and schooling. The health of Tibetan children is of a substandard level. In some areas the weight-for-age ratio has been classified as "unacceptably low" and reports indicate that chronic malnutrition is restricting the growth of Tibetan children.

8. China's comprehensive repression of religion in Tibet was intensified in 1998 with renewed calls for the transformation of Tibet into "an atheist" region where "Communist spiritual civilization" should prevail. An overwhelming 9,977 monks and nuns have been expelled for opposing China's "Strike Hard" campaign launched in 1996 at monasteries and nunneries, reports by human rights organizations say. Another alarming development, reported by the daily Qinghai on 5 October 1998, was that 49 elderly monks of the Youning monastery in the "Haidong Tibetan Autonomous Prefecture" of the so-called "Qinghai" province were "retired" by the Chinese authorities. Such a measure is being seen as a severe threat to the survival of the Tibetan Buddhist tradition in the monasteries as senior monks have a crucial role in the transmission of religious teachings. The government of TAR (Tibet Autonomous Region) says it has now completed the re-education of 30,000 of Tibet's 46,000 monks and nuns, a process involving ridding their religious institutions and individual houses of pictures of the Dalai Lama and then eradicating him from their loyalties and daily prayers. They are taught that their spiritual leader is a "splitist" determined to divide the motherland. Furthermore, they are required to acknowledge the Beijing-appointed Panchen Lama and denounce the reincarnation approved by His Holiness the Dalai Lama, the nine-year-old Gedhun Choekyi Nyima. Those who refuse will be punished with expulsion from the monastery or nunnery or lose their job.

9. The implantation of Chinese settlers into Tibet is perhaps the most significant threat to the Tibetan people as a whole today. If the Chinese authorities are permitted to continue the present policies of population transfer, Tibet may face total marginalization; a fate not unlike that of Inner Mongolia, Manchuria and Eastern Turkestan (Xinjiang).

10. The effects of the deliberate strategy are already apparent. Tibetans are denied complete access to the political sector where important issues affecting them are decided. As a result, they are vulnerable to exploitation

and harmful policies. Massive economic development, the catalyst for much of the Chinese settlement, is exploiting the land and destroying the livelihood of the indigenous people. The traditional subsistence economy is being replaced by a "market economy" from which the Tibetans are alienated. Subsistence capabilities are being severely diminished, which compromises all other rights.

11. Increased Chinese settlements, discriminatory policies and inadequate social welfare combine to create a hostile economic environment for Tibetans. More than 70 per cent of Tibetans in the TAR now live below the poverty line. China's economic development programmes are repeatedly failing to alleviate the poverty and new means of financial assistance must be employed.

12. These difficulties are compounded by harsh taxation policies that have been implemented without concessions. Tibetans are being greatly affected by these demands which sometimes constitute as much as half their salary. China plans to equate tax revenue from the TAR with that of the rest of China and with so many TAR residents living in poverty, such an intention is clearly abusive. It is essential that China relax the taxation policies and use the annual subsidy for the TAR to raise the living standard of Tibetans. Until this is achieved, many basic human rights cannot be assured.

13. Despite being a party to the International Convention on the Elimination of All Forms of Racial Discrimination, domestic laws fail to provide Tibetans with an environment free from discrimination. Some government-endorsed practices are blatantly discriminatory, to the detriment of Tibetans. Tibetans also suffer distinct biases in education and health care which greatly affects both their cultural and physical development. The continuous influx of Chinese settlers is also resulting in discrimination in the employment sector and the Chinese authorities have yet to introduce steps to rectify this issue.

14. By the end of 1998, the People's Republic of China had signed the two International Covenants on Human Rights. This gives rise to the hope that effective measures will soon be implemented to align China's domestic laws with the international norms in order to cease the current violations of human rights. The cultural and physical survival of the Tibetan population in Tibet is greatly threatened today by continual infringements of these rights. China must actively address this issue. Continual international pressure is essential in encouraging the Chinese Government to abide by the regulations of the Covenants and other international human rights treaties to which China is a party.

15. In conclusion, the International Union of Socialist Youth urges the Commission on Human Rights to consider appointing a special rapporteur to investigate the human rights situation in Tibet as recommended by the International Commission of Jurists in its report, "Tibet: Human Rights and The Rule of Law" and put forward by the Tibetan Youth Congress. We further urge the Commission to censure the People's Republic of China for committing gross and systematic violations of human rights and fundamental freedoms in Tibet for the past more than four decades.

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COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Item 13 of the provisional agenda

RIGHTS OF THE CHILD

Written statement submitted by the International Save the Children Alliance, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 1999]

GE.99-11426 (E)

1. The girl child

1. Save the Children would like to draw the attention of the Commission on Human Rights to the importance of girls' rights. The Convention on the Rights of the Child is a powerful instrument which we can use to improve the welfare of children and young people, but we must ensure that by defining rights in terms of children we do not allow the term child to become synonymous with boy. Similarly, if we only speak of women's human rights, the rights of girls can be neglected. It is our belief that to seize a great opportunity for change there must first be a change in the way adults value girls and protect their rights. The four principles of non-discrimination, the best interests of the child, survival and development, and participation enshrined in the Convention apply to both girls and boys. Therefore, these principles set out a clear uncompromising commitment to a girl's right to her development as an individual.

2. The principle of non-discrimination is relevant to all substantive articles of the Convention, including those relating to health, education, standard of living and protection of vulnerable groups of children. Wherever there is a gender bias in the degree of implementation, Governments are obliged to remedy that gap. This may mean, for example, that measures must be taken to increase the level of enrolment of girls in school and the number of girls staying on at school by reducing the obstacles to girls attending school, and to widen the opportunities for girls in terms of the quality of education, such as non sexist or gender role based education. Discrimination should also be tackled by working with both boys and girls on equality issues from an early age.

3. Considerable debate surrounds the interpretation of the "best interests" principle. In many social and cultural contexts, it is accepted that a girl's interests are subordinated to her family's wellbeing; from a very early age she is expected to care for younger siblings, to cook, to clean, to fetch fodder and fuel. Promoting the "best interests" of girls involves interventions based on a greater understanding of how particular norms are expressed in different cultural settings.

4. The rights of girls to survival and development in its fullest sense are violated at every stage of the life cycle, although this goes unrecognized or unopposed in many societies. Discrimination against girls starts before birth and in the early years where they receive less care in relation to health and nutrition in countries where son-preference is the norm. The early childhood period is particularly critical as a time when the groundwork for a girl's full development is laid. Therefore, the term "development" in this context should be broadly interpreted to include not just physical but intellectual, moral, emotional, spiritual and social development.

5. In the light of all these situations, concerted action is called for on the part of Governments and NGOs to promote the rights of girls and to improve the status of girls worldwide. In particular, Save the Children requests the Commission on Human Rights to:

(i) Urge all Governments to improve their reports on the implementation of the Convention on the Rights of the Child with

regard to the girl child and to investigate the needs in the field of ombudswork. A comprehensive review of the status of the girl child would be a relevant step in most countries in connection with the reporting process;

(ii) Urge all Governments to review existing legislation. With a view to promoting girls' rights and removing obstacles to their enjoyment, negative stereotypes should be removed from legal texts and laws which are based on implicit discriminatory thinking; for example, those setting the marriage age lower for females than males should be amended;

(iii) Urge all Governments to develop a national plan of action enhancing the rights of the girl child and identifying all sectors which are of strategic importance for reform.

2. Protection of children affected by armed conflict

6. Save the Children would like to draw the attention of the Commission on Human Rights to the subject of child soldiers, girls as well as boys. The ongoing recruitment and use of children in hostilities are rising. Approximately 300,000 child soldiers under 18 years of age are presently fighting in 36 armed conflicts around the world. While many are lawfully recruited, others are kidnapped or coerced into service. Continuing enlistment and deployment of children as fighters occurred during 1998 in, for example, Columbia, the Democratic Republic of the Congo, the Sudan, Sierra Leone and Sri Lanka.

7. During 1998, the International Save the Children Alliance intensified its advocacy efforts concerning child soldiers by means of participation in the Steering Committee of the International Coalition to Stop the Use of Child Soldiers. The Coalition's primary objective is the adoption of and adherence to, an optional protocol to the Convention on the Rights of the Child prohibiting the military recruitment and use in hostilities of any person younger than 18 years of age.

8. The protocol should reflect the true protection needs of children as supported by the growing body of Governments which have changed their recruitment laws and practices to ensure exclusion of under-18s from the armed forces, the increasing number of ratifications of the African Charter on the Rights and Welfare of the Child (which specifies the minimum age for recruitment and participation as 18 years), the decision of the United Nations Secretary-General that henceforth no United Nations Peacekeepers should be under 18 years of age and preferably not under 21 years.

9. The International Save the Children urges the Commission on Human Rights to:

(i) Renew the mandate for broad informal consultations to be undertaken by the Chair of the working group on the draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts;

(ii) To accept any text of a draft optional protocol produced by the Chair as a result of her consultations as the basis for any further negotiations on the protocol by the working group;

(iii) To urge all States to become parties to the Statute of the International Criminal Court as soon as possible;

(iv) To call on all States which have not yet set at least 18 years as the minimum age for all forms of recruitment and participation in hostilities, to reconsider their existing laws and practices with a view to (a) ensuring that they are in a position to guarantee that no peacekeepers provided to the United Nations will be below the 18-year minimum age prescribed by the United Nations Secretary-General, and preferably not below 21; and (b) reviewing the perceived need to recruit and use under-18s in military service and its compatibility with the current thinking and developing standards in relation to protection of children.

3. Elimination of the exploitation of child labour

10. The Save the Children Alliance would like to draw the attention of the Commission of Human Rights to the situation of working children in the world.

11. Save the Children engages systematically with child labour issues through project work, research and advocacy. Save the Children bases its work on the Convention on the Rights of the Child. In particular, it draws on article 32, which recognizes children's rights to protection from economic exploitation and hazardous and harmful work, on article 3 which mandates that all action affecting children must promote their best interest and on article 34, which affords protection against sexual exploitation.

12. The Save the Children Alliance vision is that hazardous and exploitative forms of child work should be eradicated. Achieving this goal requires coordinated action which addresses the fundamental economic and social causes of hazardous and exploitative child work on a number of levels. Save the Children urges Governments and international institutions to put resources behind their words and to undertake such action.

13. Addressing poverty, as well as other social inequalities, as a root cause is important in order to improve the quality of children's lives. In addition to poverty, other structural social inequalities, based on lack of relevant education, gender, ethnicity, age, class and caste, influence which children work, the kinds of work they do and their working conditions. These root causes must be addressed at the international, national and local levels.

14. Save the Children believes that the macro-economic context must be recognized as a significant cause of child work. For this reason, Governments' policies and interventions to address child work should incorporate an analysis of macroeconomic linkages, such as devaluation, inflation, liberalization of trade, currency, and how they link up with the microlevel impact on children's lives.

15. Working children and their families know their own immediate situations best, while NGOs concerned with child labour have unique experience in working with some of the most exploited children. Working children, their families and NGOs must therefore be included when formulating and implementing policy, planning and actions on child work.

16. Careful analysis of the cultural, economic and social context of child work should be undertaken before interventions for the benefit of children are considered. Intervention strategies must be based on a thorough understanding of the complexity of the reasons why children work in particular contexts.

17. Save the Children requests the Commission on Human Rights to:

(i) Urge Governments and international institutions to take coordinated action to eradicate hazardous and exploitative forms of child work;

(ii) Urge Governments to address root causes, such as poverty and other social inequalities, in order to improve the quality of children's lives, and to include analysis of macroeconomic linkages in policies and interventions concerning child work;

(iii) Request Governments, as well as other actors, to involve working children, their families and NGOs concerned with child labour in all policies, planning and actions concerning working children.

4. Children with disabilities

18. Save the Children would like to draw the attention of Commission on Human Rights to the subject of children with disabilities, girls as well as boys. Children with disabilities are especially vulnerable and for this reason it is important to consider the particular problems faced by them with a view to ensuring that their rights to the fullest possible social integration be respected. Education, development, recreation, participation, housing, transportation and institutionalization are among the key areas of discrimination faced by children with disabilities. It is estimated that only 2 per cent of these children in the developing world get any education. And throughout the world, where education is provided to children with disabilities, the practice of compulsory placement in segregated schools is widespread. Due to attitudes and beliefs, many disabled children are not included in society. Often disabled boys and girls are not given the opportunity to participate in play with their siblings and other children. Because of social and physical barriers, they are prevented from taking part in social events on the same terms as other children. Consequently, their experience and their opportunity to develop through coping and learning from and with others are limited. Negative attitudes in society often lead to abuse and neglect of the child. Experience shows that disabled children are particularly vulnerable to abuse in the family and in the community, as well as in institutions. For example, studies show that disabled children are three times more likely to be sexually abused than non-disabled children. Children with disability experience difficulties in defending themselves, as well as in reporting abuse. Abuse can delay and even inhibit the developmental process of the child.

19. The Convention on the Rights of the Child makes special mention of disabled children in article 23. However, every article in the Convention refers also the disabled child. The priority needs of disabled children are not "special", they are basic: disabled children need food, shelter, love and affection, protection, education. All the general and main principles of the Convention - non-discrimination, the best interest of the child, the right to survival and development, education and participation in decisions affecting themselves - are all highly relevant and strongly speak in support of integration and mainstreaming to make it possible for the disabled child to stay in the social context which is natural to him or her.

20. Therefore, Save the Children requests the Commission on Human Rights to:

(i) Urge all Governments to actively fight attitudes and practices, including traditional practices, prejudicial to health and development, superstition and the perception of disability as a tragedy, which discriminate against disabled children and deny them equal opportunities;

(ii) Urge all Governments to repeal and/or amend legislation which denies disabled children the equal right to life, survival and development; to eradicate discriminatory access to health services; and to respect and/or amend legislation which denies disabled children the right to education and which compulsorily segregates children in separate institutions for care, treatment or education

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COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Items 10 and 13 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

RIGHTS OF THE CHILD

Written statement submitted by the International Save the Children Alliance, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 March 1999]

GE.99-11519 (E)

The economic, social and cultural rights of the child

1. International Save the Children Alliance would like to draw the attention of the Commission on Human Rights to the process of economic exclusion that exists on a worldwide scale discriminating against the poorest countries, and the poorest groups in society. Globally, children bear the heaviest burden of economic exclusion. Child poverty is increasing faster than adult poverty in all countries at all stages of economic development. The international debt crisis continues to perpetuate the inequalities which hamper the realization of children's rights to survival and development. The Human Development Report 1997 estimates that if the Governments of Africa were relieved of their debt payments, they could save the lives of 21 million children by the year 2000 and provide 90 million girls and women with access to basic education. The current debt crisis is therefore of particular concern to the International Save the Children Alliance. Developing countries around the world owe richer countries a staggering US$ 2,170 billion. Meeting the global commitments outlined at the 1990 World Summit for Children has been estimated to require US$ 20 billion, a fraction of the 1997 global defence budget of $786 billion.

2. The nearly universal ratification of the Convention on the Rights of the Child means that nearly every country in the world has committed itself to ensuring the well-being, survival and development of children. Yet debt visibly threatens the lives and well-being of children and Governments' ability to fulfil their obligations. It is somewhat ironic that the Convention on the Rights of the Child was signed at the height of the debt crisis. Debtors and creditor Governments alike guaranteed children the inherent right to life, survival and development (art. 6), including their right to education (arts. 28 and 29) and to the enjoyment of the highest attainable standard of health (art. 24). Furthermore, the debt burden has considerably depleted the resources which Governments have to enforce the social, economic and cultural rights of children. In this regard, States are not complying with their obligations under the Convention on the Rights of the Child in relation to, inter alia, family environment and alternative care; basic health and welfare; education, leisure and cultural activities.

3. Given this reality, we request the Commission on Human Rights:

(a) To urge all Governments to honour their commitments to child survival, development, protection and participation as laid out in the Convention on the Rights of the Child. We believe that the debt crisis is threatening the commitments made towards child survival and development enshrined in the Convention. Debtor and creditors alike have a binding commitment to ensure that the debt crisis is resolved. 1999 marks the tenth anniversary of the Convention and offers a good opportunity to link debt relief specifically to child development targets and, more broadly, to the poverty reduction targets of the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(b) To urge all Governments to follow Norway's unilateral action and cancel all of their outstanding debt;

(c) To request the Committee on the Rights of the Child to conduct a tenth anniversary study on the impacts of debt on children;

(d) To request that children's needs and rights receive a full hearing in the work of the Special Rapporteur looking into the effects of foreign debt on the full enjoyment of economic, social and cultural rights.

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COMMISSION ON HUMAN RIGHTS
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Items 11(a) and 13 of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: TORTURE AND DETENTION

RIGHTS OF THE CHILD

Written statement submitted by the International Save the Children Alliance, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 March 1999]

GE.99-11523 (E)

Torture and the rights of the child

1. The International Save the Children Alliance would like to draw the attention of the Commission on Human Rights to the fact that, in considering the definition of torture in relation to children, it is important to recognize their particular status. Children are much more often subject to what amounts to detention than adults, given the traditional authority of parents, other carers and teachers. Compulsory education, and the placement of children in a wide range of residential institutions for the purpose of care, containment and treatment also effectively constitute detention. In many countries there is insufficient legal protection of children's rights in such settings, insufficient inspection and monitoring, and there remains widespread tolerance of physical punishment and deliberate humiliation. From a child's perspective being forced to live under a regime of fear, threat and experience of physical beatings, and/or other forms of deliberate humiliation, and placement in solitary confinement amount to torture, whether it takes place in the home or in an institution. In addition to the physical injuries that frequently result, there is growing research evidence of the psychological damage of such treatment, which may well be accentuated if the treatment or punishment is administered by someone whom the child is expected to love and respect.

2. Therefore, the International Save the Children Alliance requests the Commission on Human Rights to urge all Governments to commit themselves to the guidelines of the Committee on the Rights of the Child. In particular, the Committee has stressed that corporal punishment of children is incompatible with the Convention on the Rights of the Child and has often proposed the revision of existing legislation, as well as the development of awareness and educational campaigns, to prevent child abuse and the physical punishment of children. Therefore, the Committee has called for a clear prohibition of all physical punishment - in the family, in other forms of care, in schools and in the penal system - coupled with education campaigns.

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Item 11 (c) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: FREEDOM OF EXPRESSION

Written statement submitted by Reporters Sans Frontières, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[9 March 1999]

GE.99-11511 (E)

Freedom of the press

1. Freedom of the press is treated with utter contempt by authoritarian regimes in 30 countries where nearly 2 billion people live. In another 65 countries, another 2 billion men and women must make do with a heavily monitored press. Approximately 100 journalists are currently in prison around the world for having sought to practise their profession freely.

2. In the **Syrian Arab Republic**, freedom of the press is non-existent: no free or independent media are permitted. Only three official newspapers are published. Foreign newspapers and State radio and television stations are strictly controlled. Ten journalists who were given sentences ranging from 8 to 15 years are currently imprisoned for non-violent activities; one of them is still in prison even though he completed his sentence. Systematic torture has been reported.

3. **China** continues to incarcerate more journalists than any other country in Asia: 12 of these, including three Tibetans, are in prison for practising their profession. Despite the release of the journalist Yu Gao on 15 February 1999, the Beijing regime has not loosened its grip on the press. The Chinese authorities have not given out any information about the journalist Shi Binhai, who was arrested in September 1998, or about Ma Tao, whose prison term ended in October 1998. In 1999, which marks the tenth anniversary of the Tiananmen Square massacre, at least three newspapers have been shut down and the few journalists who try to remain independent, such as those who work for Southern Weekend, have been kept on a tight leash.

4. In the **Democratic Republic of the Congo** the media suffer under a highly repressive judicial system. Journalists are arrested by intelligence agents without any explanation and subsequently held in detention without trial for weeks and even months on end. Since Laurent-Désiré Kabila took power in May 1997, more than 40 journalists have been incarcerated in this manner for fairly long periods; at the end of February 1999 three were still being held.

5. Access to information in the countries of Central Asia continues to be controlled by the authorities. The information blackout in **Turkmenistan**, a veritable bastion of authoritarianism, is total: there are no independent media and the foreign press is banned. In **Uzbekistan** a 63-year-old journalist, Shadi Mardiev, whose health is precarious, was sentenced to 11 years' imprisonment for "libelling" a judge. The first signs of an independent, critical press are appearing in **Kazakhstan** and **Kyrgyzstan**, but broadcasting remains under government control.

6. In **Myanmar** seven journalists are still being held in Insein prison in Yangon: given heavy sentences, they are held in harsh conditions and occasionally subjected to torture. The press and the broadcast media are entirely controlled by the authorities. No criticism of the authorities is permitted under the law.

7 In **Viet Nam**, despite the release of Doan Viet Hoat and Nguyen Dan Que on 1 September 1998, the Government still does not tolerate the existence of a free and independent press. Self-censorship is the norm, since the authorities regularly remind journalists that they must serve the Party and

its ideology or else face sanctions. Three Vietnamese journalists are still being held under Decree 31, which allows persons to be kept under house arrest without a trial.

8. **Cuba** is the only Latin American country in which the press is completely gagged. Journalists from independent news agencies - which are illegal - are viewed as "mercenaries of the American empire". After a period of relative calm following the Pope's visit in January 1998, repression of the media has resumed with a vengeance. Two journalists have been serving sentences of 18 months and 6 years since 1997; in 1998 a colleague was imprisoned for "insulting the Head of State" while another was sentenced to a year of hard labour for "actions against State security".

9. The civil war raging in **Sierra Leone** has already taken a heavy toll on freedom of the press: at least six journalists have been killed since the beginning of 1998, newspaper offices have been sacked and dozens of journalists are suffering on account of their views, especially those who support a negotiated settlement to the conflict or have reported atrocities committed by the rebels.

10. In **Belarus** "insulting" and "libelling" the President are punishable by four years' imprisonment or two years' hard labour. Government departments have been instructed by means of a confidential circular to stop all communication with non-governmental media, and State enterprises are forbidden to place advertisements in independent or opposition newspapers. The State Committee on the Press has authorized itself to suspend publications for periods of three months without the need for any explanation.

11. **Ethiopia** continues to hold more journalists in prison than any other country in Africa, with at least 13 currently behind bars. The authorities continue to use the Press Act, adopted in 1992, to subject private newspapers to legal harassment. Ethiopian journalists are often arrested and detained for months without any formal charges. Upon payment of bail they are released and nothing more is usually said. The frequency of this practice and the exorbitant levels of bail demanded ultimately undermine the financial situation of private newspapers.

12. The regime of Slobodan Milosevic in the **Federal Republic of Yugoslavia** has used the threat of air strikes by the North Atlantic Treaty Organization (NATO) to launch a campaign against the independent press: three daily newspapers and two radio stations have been shut down and a new information act which seriously threatens freedom of the press has been passed. The conflict in Kosovo has led to numerous attacks on journalists, especially Albanian journalists, some of whom have been held and interrogated at length by the Serbian police. For their part, the members of the Kosovo Liberation Army (UCK) have attacked Serbian journalists, two of whom were held for 40 days, with a third reported missing.

13. In **Turkey** some 10 journalists were tortured while in custody and at least 60 were assaulted in 1998. Nearly 260 journalists were interrogated or imprisoned over relatively long periods of time, including the noted journalist and author Ismaïl Besikçi, who spent more than 20 years behind bars for his writings on the Kurdish question. The number of publications seized and media censored has more than doubled since 1977.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement submitted by Article 19, International Centre against Censorship, a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 March 1999]

GE.99-11527 (E)

Introduction

1. Article 19, the International Centre against Censorship, urges members of the United Nations Commission on Human Rights to support the renewal of the mandate of the Special Rapporteur on Nigeria at its Fifty-fifth session. 1/

2. The question of whether to renew the mandate of the Special Rapporteur on Nigeria will be addressed at a pivotal moment in Nigeria's history. Nigeria is awaiting the inauguration in May of a new civilian Government and President. While this is a time of hope for Nigeria, Article 19 and Media Rights Agenda are concerned that the international community should recognize that the imminent completion of the transition to civilian rule does not guarantee that democracy and human rights in Nigeria have been secured.

3. It may be argued by some parties at the Commission that what the new civilian dispensation in Nigeria needs is not further scrutiny but assistance from the international community. This would be a profoundly misguided view. Both will be required over the coming year. While the current transition to civilian rule has undoubtedly been an immense improvement upon that of the late General Sani Abacha, nonetheless it has been a flawed, "quick fix" process which leaves much still to be done if Nigeria's latest democratic experiment is not to be extremely short-lived. The terms and parameters of the current transition to civilian rule have been largely dictated by the Nigerian military. Furthermore, serious human rights abuses have continued - particularly in oil-producing areas in the south, where environmental and political protests by local communities have been intensifying.

Assessing the current "transition to civilian rule" through a "benchmarks" approach

4. Article 19 elaborated the following benchmarks for assessing the credibility of the current transition to civilian rule. In order for it to be credible there had to be:

(a) An end to arbitrary detentions and the release of all political prisoners;

(b) The repeal of key repressive decrees - in particular the State Security (Detention of Persons) Decree, No. 2 of 1984, the Constitution (Suspension and Modification) Decree, No. 107 of 1993 and the Federal Military Government (Supremacy and Enforcement of Powers) Decree, No. 12 of 1994;

(c) The publication of the 1995 draft Constitution so that it can be openly debated and, if agreed, amended to bring it into line with international human rights standards;

(d) The establishment of an agreed basis - for example, a sovereign national conference - for involving all interested parties in deciding how the "transition" should proceed;

1/ Article 19's statement is based on a common position agreed with Media Rights Agenda, a Nigerian non-governmental organization committed to the strengthening of media freedom in Nigeria.

(e) The creation of an open and fair electoral process, including for the registration of parties, overseen and supervised by a genuinely independent and impartial electoral commission.

5. How has the current transition to civilian rule initiated by General Abubakar measured up against these benchmarks?

6. There has been a dramatic reduction in the number of arbitrary detentions. With the release of a large number of remaining political prisoners in early March 1999, the vast majority have now been freed. However, the issue of repressive military decrees has barely been addressed. A barrage of decrees remain on the statute book, including those specified above. Other decrees which Article 19 believes should be repealed immediately in order to strengthen the current transition to civilian rule include: the Treason and Other Offences (Special Military Tribunal) Decree, No. 1 of 1986; the Treason and Treasonable Offences Decree, No. 29 of 1993; the Transition to Civil Rule (Political Programme) Decree, No. 1 of 1996; the Offensive Publications (Proscription) Decree, No. 35 of 1993.

7. The 1995 draft Constitution, which the Abacha Government intended would supersede the 1979 Constitution, has finally been published, but more than one version of the draft has apparently been in circulation. However, the conditions have not really existed for a full, open and informed public debate about the 1995 draft Constitution. Article 19 believes that promulgation of the 1995 draft constitution, even in revised form, by the Provisional Ruling Council (PRC) before it left power would be unacceptable. At the same time, substantial parts of the 1979 Constitution have remained suspended or amended by military decree. Our view is that the partial suspension of the 1979 Constitution should be immediately lifted. Once a democratically elected civilian government is in place, it should agree with all interested parties a mechanism for reviewing the 1995 draft and promulgating a new Constitution. A time-frame of one year should be set for this task.

8. The problem of what to do about the constitutional situation might be less acute had General Abubakar established a sovereign national conference which could have agreed how the current transition to civilian rule should proceed. However, he did not do so. The result is that the military has dictated the terms of the latest transition to civilian rule.

9. Finally, while the new transition programme is clearly far more inclusive than the discredited Abacha "transition", Article 19 shares the concerns of many Nigerian human rights and pro-democracy groups that the process has been too tightly controlled by the military. For example, describing the electoral commission that has been created as the "Independent" National Electoral Commission (INEC) does not in itself guarantee independence. An electoral commission should be seen to be completely impartial, yet at least three members of INEC have played prominent roles on a partisan basis in previous political processes.

10. Measured in this way, the current transition to civilian rule has not met the credibility benchmarks which the two organizations have adopted.

A post-transition agenda for reform

11. Given that Nigeria's current transition to civilian rule has failed to meet the above benchmarks, it is vital that the new civilian Government be urged to take immediate steps to do so. Once that minimum agenda has been fulfilled, it will be necessary for the new civilian government to initiate a comprehensive programme of human rights reform in order to reinforce Nigeria's transition to democracy. One key area will be the protection and strengthening of freedom of expression, including media freedom. Aside from the decrees mentioned above, which should be immediately repealed, there are a range of other military decrees and laws which require repeal or amendment if freedom of expression is to be adequately protected in future in Nigeria. They are:

The National Broadcasting Commission Decree, No. 38 of 1992
The Nigerian Press Council Decree, No. 85 of 1992
The Newspapers Decree, No. 43 of 1993
The Daily Times of Nigeria Ltd. (Transfer of Certain Shares), Decree No. 101 of 1979
The National Film and Video Censors Board, Decree No. 88 of 1992
The National Economic Intelligence Committee (Establishment, ETC), Decree No. 17 of 1994
The Federal Criminal Code, sections 373-81 [criminal defamation]
The News Agency of Nigeria Act (1976)
The Seditious Offences Act (1909)
The Federal Radio Corporation of Nigeria Act (1976)
The Nigerian Television Authority Act (1976)
The Official Secrets Act (1962)
The Defamation Act (1961)
The Printing Presses (Regulation) Act (1958)
The Wireless Telegraphy Act (1961)
The Obscene Publications Act (1962)
The Defamation Act (1961)

Continuing human rights abuses

12. When the Special Rapporteur on Nigeria visited Nigeria in November 1998, Article 19 asked him to raise the cases of two journalists who "disappeared" in 1996 and whose cases remain unresolved. They are Bagauda Kaltho, Kaduna correspondent of The News, and Chinedu Offoaro, a journalist with The Guardian. The Nigerian authorities have claimed that Bagauda Kaltho died while engaging in an act of terrorism. Both men are rumoured to be dead following their arrest by security agents. We have called on the Nigerian Government to institute an independent judicial inquiry into these "disappearances". So far, no such inquiry has been established. We call on the new civilian Government to do so.

13. While not on a comparable scale to the Abacha period, harassment and intimidation of critics of the military Government and the current "transition to civilian rule" has continued. For example, in August 1998, Okozie Amarube, a journalist working in Enugu State for News Service, a magazine that has been forthright in its criticism of officialdom and corruption, was shot by the police when they raided the magazine's printing press and later died in hospital from his wounds. The police have failed to investigate the incident, let alone bring the perpetrators to justice. In early February 1999, a team

of policemen stormed the editorial offices of The News and the premises of the Satellite Press, a printing company, and detained three journalists for several hours before releasing them. They also seized and confiscated copies of The News. The News was intending to publish a story on official corruption during the Abacha era. On 11 February 1999, Lanre Arogundade, Chairman of the Lagos State Council of the Nigeria Union of Journalists, was arrested and briefly detained, apparently in connection with his peaceful trade union activities. There have also been incidents of detention and harassment of journalists working in public broadcasting at state level. Finally, the Nigerian security forces appear once again to have been resorting to brutal methods of suppression of peaceful political protest in the Niger Delta.

Conclusion

14. Now is not the time to drop Nigeria from the agenda of the international community. Nigeria's current "transition to civilian rule" has been deeply flawed. The Special Rapporteur on Nigeria has an essential role to play in monitoring Nigeria's progress under the new civilian dispensation and in helping to ensure that its transition to democracy is not aborted before it has barely begun. The mandate should be extended for another year.